

12/13 (E) **FILE COPY**  
**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 264-9612  
Fax (978) 264-9630

**Don P. Johnson**  
**Town Manager**

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November 22, 2004

Mr. Todd D. Fenniman  
Burrell & Fenniman, LLP  
Box 962  
Acton, MA 01720

RE: Makaha Restaurant

Dear Attorney Fenniman:

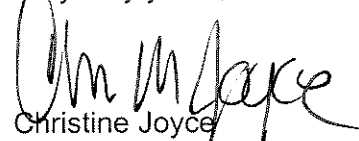
Enclosed please find materials naming the Makaha as the point of service prior to being arrested for drunk driving on October 14, 2004.

The Selectmen are very disturbed that they continue to receive these notices of alleged over service at the Makaha. The latest violation is the third one in less than a year. The Board has asked that Mr. Cheng and anyone who may have been on duty and in charge at the time of the alleged October 14<sup>th</sup> violation be present and available for questioning by the Board of Selectmen.

You and your client have been scheduled to appear at the December 13, 2004 Selectmen's Meeting at 8:15 P.M. in room 204 to discuss these notices as well as any outstanding issues from previous meetings before the Board.

Please call me to confirm your attendance at this meeting.

Very truly yours,

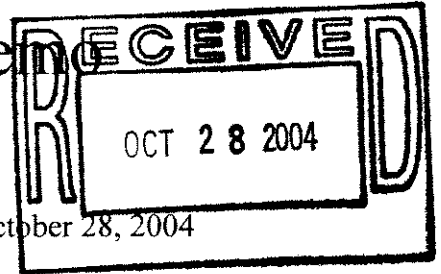
  
Christine Joyce  
Town Manager's Office

Cc: Makaha File  
Police Chief  
Raymond Cheng

~~EXTRA INFO. 11/1/04~~

# Acton Police Department

## InterDepartmental Memo



**From:** Frank J. Widmayer, Chief of Police

**Date:** October 28, 2004

**To:** Don Johnson, Town Manager

**Subj:** Makaha liquor license violation

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There has been another instance of a patron being over served at the Makaha Restaurant on Great Road. I have included copies of the incident and arrest reports. Court action against the arrested suspect is pending.

I request that the Board of Selectmen be notified so they may take whatever action they deem appropriate.

A handwritten signature in cursive script, appearing to read "Frank Widmayer", written over a horizontal line.

Frank J. Widmayer  
Chief of Police

TOWN OF ACTON POLICE DEPARTMENT

INTER-DEPARTMENTAL COMMUNICATION

TO: Lt. Thomas J. Rogers                      DATE: October 14, 2004  
FROM: Raymond P. Grey  
SUBJ: Liquor License Violation

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On the 10-14-04 at 0105 hours Officer Holway arrested an individual for operating under the influence of alcohol. A copy of Officer Holway's Incident Report is attached to this communication. While processing the arrest the following information was obtained. The arrestee indicated he had arrived at the Makaha sometime after 2130 <sup>9:30</sup> hours to meet a friend. While at the Makaha he had three scotch drinks. I made the following observations of the prisoner. He was highly intoxicated and had to be seated during the booking. While attempting to process him he was continuously vomiting into a trash barrel. The prisoner had to use both of his hands to hold onto the booking cage in order to stand up. I asked him if he had drank any alcohol prior to or after leaving the Makaha. The prisoner stated he had only consumed alcohol served to him by the staff at the Makaha. Additionally, I asked if he felt he had possibly been over served alcohol at the Makaha. The prisoner replied "yes." At certain times during the booking he appeared to be falling asleep. At my request the prisoner tried to sign several booking forms but could not manipulate the pen due to his level of intoxication. The prisoner denied an opportunity to take a BATS examination. The prisoner was bailed to his wife at 0430 hours.

*Forwarded to COP 10/14/04 @ 2130 HRS*  
*TR*

October 14, 2004

Acton Police Department  
Incident Report

Thursday 03:11

Single Incident

INCIDENT LOCAL # PRIORITY ACC REP	ACTIVITY ADDRESS (JURISDICTION) DISPOSITION	OFFICER(S)	RECEIVED DISPATCHED ARRIVED CLEARED	DISPATCHER SUPERVISOR NATURE INCIDENT TYPE
I0416538 9 No Yes	PATROL INITIATED GREAT RD Cross: CONCORD RD. ACTON, MA, 01720 (01) ARREST	HOLWAY HOWE	10/14/2004, 01:05 10/14/2004, 01:05 10/14/2004, 01:05 10/14/2004, 01:18	STACKHOUSE GREY MVS 862WWG SUSP ACTIVITY CT: STACKHOUSE

Reported as: SUSP ACTIVITY  
Domestic Abuse: No

Found as: SUSP ACTIVITY

## Dispatcher Remarks:

85DH REPORTS OUT AT THE ABOVE WITH A PARKED M/V MA REG 862WWG. OCCUPIED (1)  
MALE. 45SH ASSISTED. 85DH REPORTS (1) UNDER ARREST. INTERNATIONAL TO TOW.

ARRESTED  
(Male)

M0404263

RANDOLPH MA 02368

Phone: [REDACTED]

Race: A

Commt: ARRESTED: SUSP ACTIVITY

License: [REDACTED] (MA)

SSN: [REDACTED]

DOB: 09/13/1965 Age: 39

## Narrative(s):

Narr. 1: PTL. DANIEL HOLWAY  
Title: OFFICERS REPORT

Division: None

Status: Open

[I0416538]

Entered: PTL. DANIEL HOLWAY

Reviewed: No officer

ON THURSDAY, OCTOBER 14, 2004 WHILE ON PATROL AND ASSIGNED TO MARKED  
CRUISER 26, I WAS HEADED EAST BOUND PATROLLING CONCORD ROAD, A PUBLIC WAY IN  
ACTON, AT APPROXIMATELY 1:05 A.M.

AS I APPROACHED THE INTERSECTION OF CONCORD ROAD AND GREAT ROAD,  
ANOTHER PUBLIC WAY IN ACTON, I OBSERVED A VEHICLE ON THE HILL AND PARKED AT A  
ANGLE. THIS VEHICLE'S FRONT BUMPER WAS IN LINE WITH THE GRASS AND THE REAR OF  
THE VEHICLE WAS PARTIALLY BLOCKING THE ROADWAY. AT THIS POINT I THEN OBSERVED  
THE DRIVERS SIDE DOOR CLOSING. I ALSO OBSERVED A LARGE PILE OF VOMIT IN THE  
STREET AT THE BOTTOM OF THE DRIVERS DOOR WITH SEVERAL TISSUES IN THE MIDDLE OF  
THE PILE. I TURNED AROUND, ACTIVATED MY OVERHEAD LIGHTS AND PULLED BEHIND THE  
VEHICLE MA REG. 862WWG.

I APPROACHED THE VEHICLE ON THE PASSENGER SIDE AND OBSERVED THE  
IGNITION KEYS IN THE IGNITION. I ASKED THE SUBJECT IN THE DRIVERS SEAT TO PUT  
THE WINDOW DOWN. AS THE WINDOW WENT DOWN I DETECTED A VERY STRONG ODOR OF  
ALCOHOL COMING FROM THE VEHICLE. I ALSO OBSERVED VOMIT INSIDE THE VEHICLE AND  
ALL OVER THE DRIVERS DOOR.

I ASKED THE SUBJECT IF HE WAS FEELING ALL-RIGHT. THE SUBJECT DID NOT  
RESPONDE JUST GLARED AT ME. I OBSERVED THAT HIS EYES WERE VERY GLASSY AND  
BLOODSHOT. I ASKED AGAIN IF HE WAS OK AND IF HE HAD CONSUMED ANY ALCOHOL. THE  
SUBJECT STATED, "I DON'T FEEL WELL". AT THIS POINT I ASKED THE SUBJECT IF HE  
HAD BEEN OPERATING THE VEHICLE. THE SUBJECT STATED, "NO, I PULLED OVER" I THEN  
ASKED HOW HE ENDED UP AT THIS LOCATION. THE SUBJECT THEN STATED, "I DROVE". AT  
THIS POINT I ASKED THE OPERATOR FOR HIS LICENSE AND TO STEP FROM THE VEHICLE.  
THE OPERATOR [REDACTED] EXITED THE VEHICLE. ALLAN LEANED AGAINST THE

October 14, 2004

Acton Police Department  
Incident Report

Thursday 03:11

## Single Incident

INCIDENT LOCAL # PRIORITY ACC REP	ACTIVITY ADDRESS (JURISDICTION) DISPOSITION	OFFICER(S)	RECEIVED DISPATCHED ARRIVED CLEARED	DISPATCHER SUPERVISOR NATURE INCIDENT TYPE
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Narrative 1 (continued) By: PTL. DANIEL HOLWAY Incident I0416538

VEHICLE UNTIL HE REACHED THE TRUNK. HE THEN STUMBLED AND FELL TOWARDS ME. THE ODOR OF ALCOHOL WAS STILL VERY STRONG.

I AGAIN ASKED ALLAN IF HE HAD BEEN DRINKING. HE STATED THAT HE MET A FRIEND THAT HE HAD NOT SEEN FOR FIFTEEN YEARS. AGAIN I ASKED IF HE HAD CONSUMED ANY ALCOHOL. ALLAN STATED, "YES AT THE MAKAHA. I HAD TWO DRINKS". I ASKED ALLAN IF HE WOULD PERFORM SOME FIELD SOBRIETY TESTS. HE STATED, "YES, BUT I'M NOT A BAD PERSON". I FIRST EXPLAINED AND DEMONSTRATED THE ONE LEGGED STAND. ALLAN PICK HIS LEG UP AND FELL TOWARDS THE SIDE OF THE ROAD. I HAD TO CATCH HIM. HE TRIED AGAIN. HE LIFTED HIS FOOT, PUT IT DOWN, COUNTED TO THREE AND FELL OVER AGAIN. I CAUGHT HIM AGAIN. AT THIS POINT THE TESTS WERE TERMINATED FOR SAFETY AND ALLAN WAS PLACED INTO CUSTODY. DET. HOWE ARRIVED TO ASSIST AND STOOD BY FOR THE TOW TRUCK.

ALLAN WAS TRANSPORTED TO THE ACTON POLICE DEPARTMENT WHERE HE WAS BOOKED AND PROCESSED BY SGT. GREY IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE ACTON POLICE DEPARTMENT.

DURING THE BOOKING PROCESS I ASKED ALLAN WHERE HE WAS COMING FROM AND HE STATED, "CHARLES TOWN". I THEN ASKED HIM HOW MANY DRINKS HE HAD. ALLAN STATED, "THREE DRINKS". ALLAN WAS VOMITING THROUGHOUT THE ENTIRE BOOKING PROCESS. HE WAS HOLDING ON TO THE BOOKING CAGE SO HE WOULD NOT FALL OVER AND SEVERAL TIME THE SGT. AND MYSELF HAD TO GRAB AND HOLD ALLAN UP SO THAT HE DID NOT FALL OVER. ALLAN COULD NOT SIGN WERE NEEDED DUE TO THE FACT THAT HE WAS VOMITING.

ALLAN WAS ISSUED CITATION NUMBER M1089919 AND CHARGED WITH 90-24 OUI.

PTL. DANIEL HOLWAY